



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TJR
Docket No: 4532-00
26 December 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 3 October 1973 at the age of 17. Your record reflects that on 19 March 1974 you received nonjudicial punishment (NJP) for four periods of unauthorized absence (UA) totalling 35 days. The punishment imposed was correctional custody for 30 days and a \$300 forfeiture of pay. On 9 April 1974 you received NJP for a day of UA, failure to go to your appointed place of duty, and absence from your appointed place of duty. The punishment imposed was a \$50 forfeiture of pay and restriction for seven days. Shortly thereafter, on 19 April 1974, you were convicted by civil authorities of assault with attempt to inflict serious injury. You were sentenced to confinement for two years. The sentence was suspended contingent upon payment of court costs and continued good behavior.

The record further reflects that during the period from 30 April 1974 to 24 February 1975 you were in a UA status on five occasions for approximately 131 days. The record also reflects that on 4 and 5 March and again on 18 March 1975, you were taken into custody by civil authorities for unknown offenses. On 21

March 1975 the suspended sentence of 19 April 1974 was vacated due to your failure to pay court costs and make restitution.

Subsequently, on 9 September 1975, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel you elected your right to present your case to an administrative discharge board (ADB). On 25 September 1975 an ADB recommended you be issued an other than honorable discharge by reason of misconduct due to civil conviction. Your commanding officer also recommended you be issued an other than honorable discharge by reason of misconduct due to civil conviction. On 28 October 1975 the discharge authority approved the foregoing recommendations and directed a discharge under other than honorable conditions. On 12 November 1975 you were so discharged.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity, and letter of recommendation from The American Legion. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given the serious nature of your misconduct in both the military and civil communities and your frequent and lengthy periods of UA. Given all the circumstances of your case the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director